

1AP12 Rec'd PCT/PTO 22 JAN 2008

PTO/SB/21 (01-08)

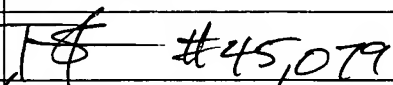
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<h1>TRANSMITTAL FORM</h1> <p><i>(to be used for all correspondence after initial filing)</i></p>		Application Number	10/583,215-Conf. #7708
		Filing Date	June 16, 2006
		First Named Inventor	Donald Alfred Atkinson
		Art Unit	N/A
		Examiner Name	Not Yet Assigned
Total Number of Pages in This Submission	12	Attorney Docket Number	04465/026001

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Cover Letter (2 pages) Revised Declaration dated January 18, 2008 (4 pages) Copy of Decision dated November 21, 2007 (3 pages) Return Receipt Postcard
<div style="border: 1px solid black; padding: 5px; min-height: 80px;"> Remarks </div>		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm Name	OSHA · LIANG LLP		
Signature			
Printed name	Jonathan P. Osha		
Date	January 22, 2008	Reg. No.	33,986

Certificate of Express Mailing Under 37 CFR 1.10

I hereby certify that this correspondence is being deposited with the United States Postal Service as Express Mail, Airbill No. EM156760141US in an envelope addressed to:

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Commissioner for Patents
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Alexandria, VA 22313-1450

on January 22, 2008
Date



Signature

Marty Miles

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Transmittal (1 page)
Cover Letter (2 pages)
Revised Declaration dated January 18, 2008 (4 pages)
Copy of Decision dated November 21, 2007 (3 pages)
Return Receipt Postcard

22511

PATENT TRADEMARK OFFICE

Docket No.: 04465/026001
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Donald Alfred Atkinson (deceased)

Application No.: 10/583,215
Filed: June 16, 2006

Confirmation No.: 7708

PCT No.: PCT/AU2004/001766
International Filing Date: 16 December 2004
Priority Date: 18 December 2003

Examiner: Richard R. Cole

For: HYBRID CONSTRUCTION ELECTRIC MACHINE

RENEWED REQUEST UNDER 37 CFR § 1.42

MS: PCT
ATTN: Office of PCT Legal Administration
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicant responds herewith to the Decision dated November 21, 2007. A copy of the Decision is enclosed for the Examiner's convenience.

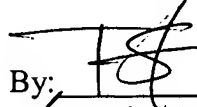
Applicant has also enclosed for the Examiner's consideration, a revised Declaration in conformance with 37 CFR § 1.497(b)(2).

Applicant believes this reply is fully responsive to all outstanding issues and places this application in condition for allowance. If this belief is incorrect, or other issues arise, the Examiner is encouraged to contact the undersigned or his associates at the telephone number

listed below. Please apply any charges not covered, or any credits, to Deposit Account 50-0591, Reference 04465/026001 from which the undersigned is authorized to draw.

Dated: January 22, 2008

Respectfully submitted,

By:  #45,071
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In re Application of
ATKINSON (deceased)
Application No.: 10/583,215
PCT No.: PCT/AU2004/001766
Int. Filing Date: 16 December 2004
Priority Date: 18 December 2003
Atty. Docket No.: 04465/026001
For: HYBRID CONSTRUCTION
ELECTRIC MACHINE

DECISION

This is a decision on applicant's "RESPONSE TO NOTIFICATION OF DEFECTIVE RESPONSE" which filed in the U.S. Patent and Trademark Office (USPTO) on 02 October 2007, and the declaration of the inventor filed in the USPTO on 30 July 2007, which have been treated as a request for acceptance of the application under 37 CFR 1.42.

BACKGROUND

On 16 December 2004, applicant filed international application No. PCT/AU04/01766 which claimed a priority date of 18 December 2003, and which designated the United States.

The deadline for submission of a copy of the international application (unless previously communicated by the International Bureau) and payment of the basic national fee expired 30 months from the priority date, i.e. 18 June 2006.

On 16 June 2006, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*, the basic national fee and an unexecuted declaration of the inventor.

On 02 April 2007, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 and a surcharge for providing the oath or declaration later than 30 months from the priority date were required.

On 30 July 2007, applicant filed, *inter alia*, a declaration executed by Daphne Atkinson and the requisite surcharge.

On 07 September 2007, the DO/EO/US mailed a NOTIFICATION OF DEFECTIVE RESPONSE (Form PCT/DO/EO/916) indicating that the declaration was not in compliance with 37 CFR 1.497 in that it identified and was executed someone other than the inventor named in the international application.

On 02 October 2007, applicant filed the present response which has been treated as a request that the application be accepted under 37 CFR 1.42 and 1.497(b)(2) as filed by Daphne Atkinson as the legal representative of inventor Donald Atkinson who is deceased.

DISCUSSION

A review of the application file reveals that the declaration by Daphne Atkinson as the legal representative of the deceased inventor, Donald Atkinson is not acceptable for the following reasons.

37 CFR 1.497(b)(2) states:

If the person making the oath or declaration or any supplemental oath or declaration is not the inventor (§§ 1.42, 1.43, or § 1.47), the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor would have been required to state. If the person signing the oath or declaration is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence and mailing address of the legal representative.

A review of the declaration filed 30 July 2007, reveals that it does not set forth the facts which the inventor would have been required to state. Specifically, the declaration provides the citizenship, residence and mailing address of the legal representative, but does not set forth such information for the actual inventor. Therefore, the application cannot be accepted under 37 CFR 1.42 at this time.

CONCLUSION

For the reasons above, the request under 37 CFR 1.42 is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Request Under 37 CFR 1.42". No additional petition fee is required.

A proper response must include a declaration of the inventors in compliance with 37 CFR 1.42 and 1.497.

Extensions of time may be obtained under 37 CFR 1.136(a).

Please direct further correspondence with respect to this matter to the Commissioner for Patents, Mail Stop PCT, PO Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the Office of PCT Legal Administration.

A handwritten signature in black ink, appearing to read 'R. Cole', written in a cursive style.

Richard R. Cole
PCT Legal Examiner
Office of PCT Legal Administration

(571) 272-3281
Fax: (571) 273-0459